

Message Text

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ACTION L-03

INFO OCT-01 EA-10 ISO-00 PM-05 CIAE-00 INR-07 NSAE-00
JUSE-00 /026 W

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R 010215Z SEP 77
FM AMEMBASSY MANILA
TO SECSTATE WASHDC 4486
SECDEF WASHDC
INFO DEPT JUSTICE WASHDC
NAVY JAG WASHDC
CINCPAC
CINCPACFLT
COMNAVBASE SUBIC
NAVLEGSVCOFF SUBIC

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E.O. 11652: N/A
TAGS: ACLM
SUBJECT: NEGRITO TRIBE CASES

REF: MANILA 11467, DTG P260622Z JUL 77

1. ON AUGUST 29 ATTORNEY LUNA AND EMBASSY LEGAL OFFICER CALLED ON ASSISTANT SOLICITOR GENERAL VICENTE MENDOZA TO WHOM EMBASSY NOTE (REFTEL) HAD BEEN REFERRED FOR STUDY AND RECOMMENDATION TO SECRETARY OF JUSTICE. MENDOZA WAS BRIEFED ON BACKGROUND OF CASE AND TENTATIVELY CONCLUDED THAT GOP HAD INTEREST IN CASE AND FURTHER THAT IF REQUIRED TO APPEAR OR IMPEADED, GOP WOULD PROBABLY ASSERT SOVEREIGN IMMUNITY AS A DEFENSE. HE HEDGED ON ANY FIRM STATEMENT UNTIL HE DISCUSSED MATTER WITH SOLICITOR GENERAL.

2. ON SEPTEMBER 1 ATTORNEY LUNA PLANS TO FILE MOTION IN CIVIL CASE NO. 2197-0 REQUIRING PLAINTIFFS TO PRODUCE
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DOCUMENTATION ON WHICH PLEADINGS ARE BASED. IF MOTION IS UNSUCCESSFUL OR IF COURT REQUIRES DEFENDANT TO FURNISH WHAT DOCUMENTATION IT POSSESSES FOR USE OF PLAINTIFF, ATTORNEY LUNA THEN PLANS TO FILE MOTION FOR THIRTY DAY DELAY SO THAT GOP MAY HAVE TIME TO STUDY ITS POSITION.

3. WHETHER MENDOZA'S INITIAL ASSESSMENT OF PROBABLE

GOP ACTION IS CORRECT OR NOT, EMBASSY SUGGESTS DEPARTMENT OF JUSTICE AUTHORIZE LUNA TO ASSERT DEFENSE OF SOVEREIGN IMMUNITY IN CIVIL CASE NO. 2197-0. THAT CASE DOES NOT APPEAR TO ARISE FROM A COMMERCIAL ACTIVITY NOR TO BE FOUNDED ON A SIMPLE BREACH OF CONTRACT. BASED ON PRESENTLY AVAILABLE DOCUMENTS, THE PLAINTIFFS APPEAR TO BE BASING THEIR CLAIM ON ACTION OF THE USG AND GOP REFLECTED IN AN AGREEMENT SIGNED BY THE U.S. NAVY, THE OLONGAPO MAYOR AND THE COMMISSIONER ON NATIONAL INTEGRATION (MARCH 1967); A 1972 AMENDMENT TO THAT AGREEMENT SIGNED BY THE SAME PARTIES; A 1974 AGREEMENT BETWEEN THE NAVY AND THE PHILIPPINE UNDERSECRETARY OF NATIONAL DEFENSE REPLACING THE 1967 AGREEMENT AND ITS AMENDMENTS; AND THE 1977 DECISION OF THE NAVY TO TERMINATE THE REVOCABLE PRIVILEGES OF THE NEGRITOS GRANTED IN THE FOREGOING AGREEMENTS. DOJ SHOULD HAVE RECEIVED THOSE AGREEMENTS BY NOW. ALSO INVOLVED IS THE TREATY OBLIGATION OF GOP TO FURNISH LAND AND ALLOW NAVY TO OPERATE THE SUBIC NAVAL BASE.

4. WITH REGARD TO CIVIL CASE NO. 2198-0 AGAINST INDIVIDUAL DEFENDANTS, LUNA PLANS TO FILE MOTION FOR PRODUCTION OF DOCUMENTS CONSISTENT WITH MOTION TO BE FILED IN CIVIL CASE NO. 2197-0 FOLLOWED BY MOTION TO DISMISS ON OFFICIAL IMMUNITY GROUNDS.

5. LUNA LEAVES FOR TRIP TO EUROPE AND U.S. ON LIMITED OFFICIAL USE

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SEPTEMBER 17 FOR PERIOD OF FOUR WEEKS. HE REQUESTS EARLY ADVICE AND INSTRUCTIONS FROM DEPARTMENT OF JUSTICE ESPECIALLY WITH REGARD TO QUESTIONS OF SOVEREIGN IMMUNITY. RESPONSE REQUESTED BY SEPTEMBER 6.

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Message Attributes

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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
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Disposition Remarks:
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SAS ID: 1087357
Secure: OPEN
Status: NATIVE
Subject: NEGRITO TRIBE CASES
TAGS: ACLM
To: STATE DOD
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